

No. 15-5082

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY,
SAN DIEGO GAS & ELECTRIC COMPANY, PEOPLE OF THE STATE OF CALIFORNIA EX
REL. EDMUND G. BROWN JR., ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
CALIFORNIA DEPARTMENT OF WATER RESOURCES, by and through its California
Energy Resources Scheduling Division,

Plaintiff - Appellants,

v.

UNITED STATES,

Defendant - Appellee.

Appeal from the United States Court of Federal Claims
(Hon. Susan G. Braden, Case Nos. 07-00157, 07-00167, and 07-00184)

**APPELLANTS' UNOPPOSED MOTION
FOR EXTENSION OF TIME TO FILE OPENING BRIEF**

Marie L. Fiala
SIDLEY AUSTIN LLP
555 California Street
San Francisco, CA 94104
415.772.1278
mfiala@sidley.com

*Counsel for Pacific Gas and Electric
Company*

Gary Alexander
CALIFORNIA DEPT. OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102
415.703.5599
gary.alexander@doj.ca.gov

*Counsel for California Department of
Water Resources and People of the
State of California*

Stan Berman
SIDLEY AUSTIN LLP
701 Fifth Avenue
Suite 4200
Seattle, WA 98104
206.262.7681
sberman@sidley.com

Quin M. Sorenson
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
202.735.8456
qsorenson@sidley.com

*Counsel for Pacific Gas and Electric
Company*

Jane I. Ryan
Heather M. Horne
Richard K. Willard
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
202.429.6294
jryan@steptoe.com

*Counsel for Southern California
Edison Company*

Mark Fogelman
Ruth Stoner Muzzin
FRIEDMAN & SPRINGWATER LLP
33 New Montgomery Street
Suite 290
San Francisco, CA 94105
415.834.3800
mfogelman@friedmanspring.com

*Counsel for San Diego Gas &
Electric Company*

Pursuant to Federal Rule of Appellate Procedure 26(b) and the Rules of this Court, Plaintiff-Appellants Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, the People of the State of California, and the California Department of Water Resources respectfully request a 30-day extension of time, to and including September 8, 2015, within which to file their opening brief. Appellants' brief is currently due on August 6, 2015. Appellants have discussed this request with Appellee the United States, which does not oppose it. This is Appellants' second request for an extension of time. The Court previously extended the deadline for Appellants' brief by 30 days, from July 6 to August 6, 2015.

In fulfillment of this Court's Local Rule 26(b)(5), undersigned counsel declares under penalty of perjury that there is good cause for this motion.

This appeal is extraordinarily complex. It addresses a series of suits arising out of California's deregulation of its electricity market and the Western United States Energy Crisis of 2000 and 2001, and relates to multiple challenges to the authority of the Federal Energy Regulatory Commission. The claims under review—against the United States for, *inter alia*, breach of contract—have been subject to litigation for nearly a decade, including a multi-week trial before the Court of Federal Claims. The issues before this Court will involve resolution of significant legal questions hinging on disputed findings of fact set against an intricate regulatory background. The requested extension is warranted to allow

counsel to evaluate the record thoroughly and identify and analyze those issues that should be presented to and resolved by this Court.

This case also involves multiple plaintiffs, including the State of California and California's three largest investor-owned public utilities. Counsel for these plaintiffs, although representing different parties and interests, are coordinating their work in an effort to avoid unnecessary duplication and briefing. Despite these diligent efforts, the requested extension is necessary to enable counsel to meet their goal of filing a single brief on behalf of all Appellants that concisely addresses the issues this Court must resolve.

CONCLUSION

Appellants respectfully request that the Court grant a one-month extension of the deadline to file their opening brief, to and including September 8, 2015.

Dated: July 8, 2015

Gary Alexander
CALIFORNIA DEPT. OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
455 Golden Gate Avenue
Suite 11000
San Francisco, CA 94102
415.703.5599
gary.alexander@doj.ca.gov

*Counsel for California Department of
Water Resources and People of the
State of California*

Respectfully submitted,

/ s / Marie L. Fiala
Marie L. Fiala
SIDLEY AUSTIN LLP
555 California Street
San Francisco, CA 94104
415.772.1278
mfiala@sidley.com

*Counsel for Pacific Gas and Electric
Company*

Jane I. Ryan
Heather M. Horne
Richard K. Willard
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
202.429.6294
jryan@steptoe.com

*Counsel for Southern California Edison
Company*

Mark Fogelman
Ruth Stoner Muzzin
FRIEDMAN & SPRINGWATER LLP
33 New Montgomery Street
Suite 290
San Francisco, CA 94105
415.834.3800
mfogelman@friedmanspring.com

*Counsel for San Diego Gas & Electric
Company*

Stan Berman
SIDLEY AUSTIN LLP
701 Fifth Avenue
Suite 4200
Seattle, WA 98104
206.262.7681
sberman@sidley.com

Quin M. Sorenson
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
202.735.8456
qsorenson@sidley.com

*Counsel for Pacific Gas and Electric
Company*

No. 15-5082

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY,
SAN DIEGO GAS & ELECTRIC COMPANY, PEOPLE OF THE STATE OF CALIFORNIA EX
REL. EDMUND G. BROWN JR., ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
CALIFORNIA DEPARTMENT OF WATER RESOURCES, by and through its California
Energy Resources Scheduling Division,

Plaintiffs - Appellants,

v.

UNITED STATES,

Defendant - Appellee.

Appeal from the United States Court of Federal Claims
(Hon. Susan G. Braden, Case Nos. 07-00157, 07-00167, and 07-00184)

**DECLARATION OF MARIE L. FIALA IN SUPPORT OF APPELLANTS'
UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPENING
BRIEF**

I, Marie L. Fiala, declare as follows:

1. I am an attorney with Sidley Austin LLP and counsel of record for Appellant Pacific Gas and Electric Co. in the above-titled action. I make this declaration in support of Appellants' second motion for an extension of time. The matters referred to in this declaration are based upon my personal knowledge, and if called as a witness I could testify competently to those matters.

2. Appellants respectfully request an extension of the deadline to file their opening brief to and including September 8, 2015.

3. Appellants' opening brief is currently due to be filed on August 6, 2015. This is Appellants' second request for an extension. The Court previously extended the deadline from July 6 to August 6.

4. Appellee the United States does not oppose this request.

5. There is good cause for this motion.

a. This appeal is, first, extraordinarily complex. It addresses a series of suits arising out of California's deregulation of its electricity market and the Western United States Energy Crisis of 2000 and 2001, and relates to multiple challenges to the authority of the Federal Energy Regulatory Commission. The claims under review—against the United States for, *inter alia*, breach of contract—have been subject to litigation for nearly a decade, including a multi-week trial before the Court of Federal Claims. The issues before this Court will involve resolution of significant legal questions hinging on disputed findings of fact set against an intricate regulatory background.

b. This case also involves multiple plaintiffs, including the State of California and California's three largest investor-owned public utilities. Appellants intend to ease the burden of adjudicating this complex case by presenting a single brief on behalf of all Appellants rather than multiple

briefs. Appellants' counsel, despite representing multiple parties with different interests, have been working diligently toward that goal, and the requested extension will permit them to properly coordinate their briefing and avoid unnecessary duplication.

6. I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed this 8th of July, 2015, at San Francisco, California.

/s/ Marie L. Fiala

Marie L. Fiala

SIDLEY AUSTIN LLP

1501 K Street, N.W.

Washington, D.C. 20005

Telephone: (202) 736-8000

Facsimile: (202) 736-8711

mfiala@sidley.com

*Counsel for Pacific Gas and Electric
Company*

No. 15-5082

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY,
SAN DIEGO GAS & ELECTRIC COMPANY, PEOPLE OF THE STATE OF CALIFORNIA EX
REL. EDMUND G. BROWN JR., ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,
CALIFORNIA DEPARTMENT OF WATER RESOURCES, by and through its California
Energy Resources Scheduling Division,

Plaintiffs - Appellants,

v.

UNITED STATES,

Defendant - Appellee.

Appeal from the United States Court of Federal Claims
(Hon. Susan G. Braden, Case Nos. 07-00157, 07-00167, and 07-00184)

PROPOSED ORDER

Upon consideration of Appellants' Unopposed Motion for Extension of
Time To File Opening Brief,

IT IS ORDERED THAT:

1. The motion be GRANTED, and the Clerk of the Court note this extension on the docket; and
2. Appellants' opening brief shall be due on September 8, 2015.

FOR THE COURT:

Date: _____

Copies to: Marie L. Fiala
Stan Berman
Quin M. Sorenson
Gary Alexander
Jane I. Ryan
Heather M. Horne
Richard K. Willard
Mark Fogelman
Ruth Stoner Muzzin

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Pacific Gas & Electric Co. v. United StatesNo. 15-5082

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellant _____ certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Pacific Gas and Electric Company ("PG&E")

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Pacific Gas and Electric Corporation has a 10% or greater ownership interest in PG&E. Pacific Gas and Electric Corporation and a subsidiary hold 100% of the issued and outstanding shares of PG&E common stock. Together they own approximately 95% of the total outstanding, voting stock of PG&E. Holders of PG&E's preferred stock hold approximately 5% of PG&E's total outstanding voting stock.

4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Sidley Austin LLP, Heller Ehrman LLP, Marie L. Fiala, Stan Berman, Quin M. Sorenson, Menesh Patel, Tobias S. Loss-Eaton

5/19/15

Date

/s/ Marie L. Fiala

Signature of counsel

Marie L. Fiala

Printed name of counsel

Please Note: All questions must be answered

cc: _____

Form 9

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Pacific Gas and Electric Co. v. United StatesNo. 15-5082

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellant _____ certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Southern California Edison Company

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Southern California Edison Company (Edison) is an investor-owned public utility primarily engaged in the business of purchasing, generating, transmitting, distributing, and selling electric energy at wholesale and retail in the State of California. Edison has issued equity and debt securities to the public and its preferred and preference stock is held by public investors. Edison is a subsidiary of Edison International, a California corporation and holding company that owns all of the common stock of Edison. Edison International has issued equity and debt securities to the public.

4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:Step toe & Johnson LLP, Jane I. Ryan, Heather M. Horne, Catherine Giovannoni, Daniel Sauls, Richard Willard5/18/2015

Date

/s/ Jane I. Ryan

Signature of counsel

Jane I. Ryan

Printed name of counsel

Please Note: All questions must be answered

cc: _____

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Pacific Gas and Electric Co. v. United StatesNo. 15-5082

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellant, San Diego Gas & Electric Company certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

San Diego Gas & Electric Company

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

The parent corporation of San Diego Gas & Electric Company, Enova Corporation, owns 100% of the stock of San Diego Gas & Electric Company. Sempra Energy, a publicly traded company, owns 100% of the stock of Enova Corporation.4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:Friedman & Springwater LLP, Hennigan Bennett & Dorman LLP, Mark Fogelman, Ruth Stoner Muzzin, Stefanie A. Elkins, Robert E. Clark, Laura Lindgren, J. Michael Hennigan, Robert W. Mockler5/18/15

Date

/s/ Mark Fogelman

Signature of counsel

Mark Fogelman

Printed name of counsel

Please Note: All questions must be answered

cc: _____

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUITPacific Gas & Electric Co. v. United StatesNo. 15-5082**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellant _____ certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

People of the State of California ex rel. Edmund G. Brown, Attorney General of the State of California; and California Department of Water Resources by and through its California Energy Resources Scheduling Division

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None4. ☒ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:California Department of Justice, Office of the Attorney General; Gary Alexander, Myung J. Park, Julia Y. Je, Clarence Binninger, Joshua Sondheimer5/18/15

Date

/s/ Gary Alexander

Signature of counsel

Gary Alexander

Printed name of counsel

Please Note: All questions must be answered

cc: _____

FORM 30. Certificate of Service

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on
by:

Jul 8, 2015

- ☐ US mail
☐ Fax
☐ Hand
☒ Electronic Means
(by email or CM/ECF)

Marie L. Fiala

Name of Counsel

/s/ Marie L. Fiala

Signature of Counsel

Law Firm

Sidley Austin LLP

Address

555 California Street, Suite 2000

City, State, ZIP

San Francisco, California, 94104

Telephone Number

(415) 772-1200

FAX Number

(415) 772-7400

E-mail Address

mfiala@Sidley.com

NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an “/s/” and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.